

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION**

DKIII HORNBACK ENTERPRISES, LTD.	§	CIVIL ACTION NO.
	§	
V.	§	
JOHN CUELLAR, GUADALUPE RIVERA,	§	
JERRY TAFOLLA, LEO OLIVAREZ, AND	§	
JOSE MARTINEZ, DAVID FOX AND THE	§	M – 13 – 395
CITY OF WESLACO	§	

JOINT MOTION TO DISMISS

TO THE HONORABLE U.S. DISTRICT COURT:

Plaintiff **DKIII HORNBACK ENTERPRISES, LTD.** and Defendants **THE CITY OF WESLACO, TEXAS, JOHN CUELLAR, GUADALUPE RIVERA, JERRY TAFOLLA, LEO OLIVARES, DAVID FOX** and **JOSE MARTINEZ** move for an Order dismissing this case against Defendants, and in support thereof show:

Plaintiff **DKIII HORNBACK ENTERPRISES, LTD.** and Defendants **THE CITY OF WESLACO, TEXAS, JOHN CUELLAR, GUADALUPE RIVERA, JERRY TAFOLLA, LEO OLIVARES, DAVID FOX** and **JOSE MARTINEZ**, by and through their attorneys of record, hereby inform the Court that the claims against Defendants have been compromised and settled, and Plaintiff and Defendants hereby pray that all causes of action against Defendants **THE CITY OF WESLACO, TEXAS, JOHN CUELLAR, GUADALUPE RIVERA, JERRY TAFOLLA, LEO OLIVARES, DAVID FOX** and **JOSE MARTINEZ** be dismissed with prejudice as of the settlement.

WHEREFORE, PREMISES CONSIDERED, Plaintiff **DKIII HORNBACK ENTERPRISES, LTD.** and Defendants **THE CITY OF WESLACO, TEXAS, JOHN CUELLAR, GUADALUPE RIVERA, JERRY TAFOLLA, LEO OLIVARES, DAVID FOX and JOSE MARTINEZ** request that this Court enter an Order dismissing this suit with prejudice as to Defendants **THE CITY OF WESLACO, TEXAS, JOHN CUELLAR, GUADALUPE RIVERA, JERRY TAFOLLA, LEO OLIVARES, DAVID FOX and JOSE MARTINEZ**, with all Court costs to be borne by the party incurring same.

Signed on this the 27th day of February, 2015.

Respectfully submitted,

/s/ Javier Villalobos

Javier Villalobos
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Federal I.D. No.: 25470
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Lead Counsel for Plaintiff
DKIII HORNBACK ENTERPRISES, LTD.

**LAW OFFICE OF
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/s/ J. Arnold Aguilar

J. Arnold Aguilar
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Lead Counsel for Defendants
**THE CITY OF WESLACO, TEXAS,
JOHN CUELLAR, GUADALUPE RIVERA,
JERRY TAFOLLA, LEO OLIVARES,
DAVID FOX and JOSE MARTINEZ**

AGUILAR ☆ ZABARTE, LLC
990 Marine Drive
Brownsville, Texas 78520
Telephone: (956) 504-1100
Facsimile: (956) 504-1408

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing **JOINT MOTION TO DISMISS** will on this the 27th day of February, 2015, be automatically provided through the Notice of Electronic Filing upon the following:

Mr. Javier Villalobos
Law Office of Javier Villalobos, P.C.
5804 North 23rd Street
McAllen, TX 78504

/s/ J. Arnold Aguilar
J. Arnold Aguilar

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JOSE MARTINEZ, DAVID FOX AND THE	§	
CITY OF WESLACO	§	

AGREED ORDER OF DISMISSAL

Plaintiff **DKIII HORNBACK ENTERPRISES, LTD.** and Defendants **THE CITY OF WESLACO, TEXAS, JOHN CUELLAR, GUADALUPE RIVERA, JERRY TAFOLLA, LEO OLIVARES, DAVID FOX** and **JOSE MARTINEZ**, by and through their attorneys of record, having informed the Court by the filing of a Joint Motion to Dismiss that the claims against these sole remaining Defendants have been compromised and settled, and the Plaintiff and Defendants having prayed that all causes against Defendants **THE CITY OF WESLACO, TEXAS, JOHN CUELLAR, GUADALUPE RIVERA, JERRY TAFOLLA, LEO OLIVARES, DAVID FOX** and **JOSE MARTINEZ** be dismissed with prejudice as of this settlement, and all remaining parties agreeing thereto, and it appearing to the Court that at the request of the parties the dismissal should be made as prayed,

NOW, THEREFORE, IT IS ORDERED, ADJUDGED and DECREED that Plaintiff **DKIII HORNBACK ENTERPRISES, LTD.**'s cause be dismissed as to Defendants **THE CITY OF WESLACO, TEXAS, JOHN CUELLAR, GUADALUPE RIVERA, JERRY TAFOLLA, LEO OLIVARES, DAVID FOX and JOSE MARTINEZ**, with prejudice against all parties to file any same or similar actions, with all court costs to be taxed against the party incurring same.

It is further ORDERED, ADJUDGED and DECREED that any and all other relief not expressly granted herein is denied. This judgment finally disposes of all parties and claims and is appealable.

SO ORDERED this _____ day of _____, 2015, at McAllen, Texas.

Randy Crane
United States District Judge

APPROVED AS TO SUBSTANCE AND FORM:

/s/ Javier Villalobos
Javier Villalobos

Lead Counsel for Plaintiff
DKIII HORNBACK ENTERPRISES, LTD.

/s/ J. Arnold Aguilar
J. Arnold Aguilar

Lead Counsel for Defendants
THE CITY OF WESLACO, TEXAS,
JOHN CUELLAR, GUADALUPE RIVERA,
JERRY TAFOLLA, LEO OLIVARES
DAVID FOX and JOSE MARTINEZ